



NEVADA DIVISION OF  
**ENVIRONMENTAL  
PROTECTION**

**STATE OF NEVADA**  
Department of Conservation & Natural Resources  
Brian Sandoval, Governor  
Bradley Crowell, Director  
David Emme, Administrator

January 27, 2017

Mr. Barnes Johnson  
Director, Office of Resource Conservation and Recovery  
US EPA Headquarters  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N.W.  
Mail Code: 5301P  
Washington, DC 20460

SENT VIA E-MAIL [Johnson.barnes@epa.gov](mailto:Johnson.barnes@epa.gov)

RE: Docket Number EPA-HQ-SFUND-2015-0781, Proposed Rulemaking for "Financial Responsibility Requirements Under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry"  
**120 Day Extension Request**

Dear Mr. Johnson:

The Nevada Division of Environmental Protection (NDEP) administers the mining regulation, reclamation and financial assurance requirements contained in Nevada Revised Statutes 445A and 519A on public and private lands in the State of Nevada. NDEP has over 28 years of hands-on experience implementing these statutes since they were enacted in 1989, 9 years after CERCLA § 108(b) provisions were originally signed into law. In a state with abundant mineral resources and mining activity, NDEP plays a leading role in the environmental regulation of mining practices. As stated in the preamble of the proposed rule (82 Fed. Reg. 3390), Nevada is the state with the largest number of facilities initially identified by EPA as potentially subject to regulation under the rule.

NDEP is encouraged that the preamble to the proposed rulemaking includes provision for and solicits comment on a program deferral option (82 Fed. Reg. 3468 – 3469). This is an explicit recognition that comprehensive state mining regulation programs can provide the necessary financial assurance to address hazardous substance releases at hardrock mines. A programmatic deferral option is also consistent with the CERCLA mandate for the Environmental Protection Agency (EPA) to promulgate financial assurance requirements "consistent with the degree and duration of risk" associated with hazardous substances at these facilities (CERCLA § 108(b)(1)). NDEP intends to provide comments supportive of the program deferral option.

As a result of the sheer volume of material EPA has used to support with the proposed rulemaking, **NDEP requests 120 additional days to provide comments, or until July 10, 2017.**

NDEP also needs this additional time to further develop a program deferral option and engage in discussions on this approach with interested parties including, but not limited to: EPA, Bureau of Land Management, US Forest Service, affected industry, the Nevada Division of Minerals and interested non-governmental organizations. Given adequate time, NDEP anticipates that we will be able to provide constructive suggestions on the proposed rulemaking.

Thank you for your consideration. If you have any questions or would like to discuss this further, please contact me at 775-687-9373 or [glovato@ndep.nv.gov](mailto:glovato@ndep.nv.gov).

Sincerely,



Greg Lovato  
Deputy Administrator  
NV Division of Environmental Protection

cc: Barbara Foster, EPA ([Foster.Barbara@epa.gov](mailto:Foster.Barbara@epa.gov))  
Michael Pease, EPA ([Pease.Michael@epa.gov](mailto:Pease.Michael@epa.gov))  
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Joe Sawyer, Chief, Bureau of Mining Regulation and Reclamation, NDEP  
Rick Perdomo, Senior Deputy Attorney General, Nevada Office of the Attorney General  
Richard Perry, Administrator, Nevada Division of Minerals  
Jon Ruhs, Director, Nevada State Office, US Bureau of Land Management  
Brian Amme, Deputy State Director, Nevada State Office, US Bureau of Land Management  
Bill Dunkelberger, Forest Supervisor, Humboldt-Toiyabe National Forest, US Forest Service